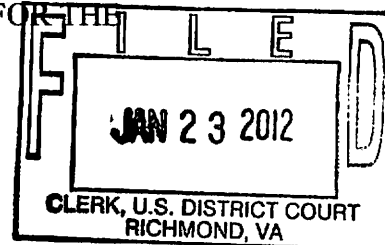


IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA

Richmond Division



CHARLES TISDALE

: Civil Action

Plaintiff, Pro se

v.

: Case No 3:12cr36

Honorable Barack H. Obama, II,  
Personally and in his capacity as President of the  
United States, and DON PALMER, in his official  
Capacity as Secretary of the Virginia State Board  
Of Elections, and THE VIRGINIA STATE BOARD  
OF ELECTIONS, and NEIL H. MACBRIDE, in  
His official capacity as United States Attorney for  
The Eastern District of Virginia, and THE  
FEDERAL ELECTION COMMISSION.

**MEMORANDUM OF LAW TO  
SUPPORT PLAINTIFF'S CASE**

*/motion For Injunction*

Defendants

**STANDING**

1. Plaintiff as an Afro-American natural born citizen has Article Three Standing because he has and will continue to suffer an invasion of a legally protected right under the First Amendment to petition the government as an aggrieved person. That right is impeded by the highest government office holder (The President of the United States) ineligible to be President under Article Two, Section One, Clause Five of the United States Constitution.

2. Political decisions from the President effecting United States Citizens under the 14<sup>th</sup> Amendment's Constitutional right or privilege to medicare, medicaid, unemployment, foreign policy, acts of war, housing, criminal justice as enjoyed by white people, must be free from ineligible office holders whose decisions on these matters greatly and adversely effect the due process/equal protection clauses for which plaintiff is entitled under the 14<sup>th</sup> Amendment.

3. The conditions of Plaintiff as an Afro-American and those similarly situated under this President and this Congress is so egregious, that it violates the protections afforded under the Fourteenth Amendment.

4. Evidence will show, the President and Congress continue to respond to an 8.5 to 9 per cent national unemployment rate for White America while in total disregard to the 22 to 26 per cent unemployment rate in the Afro-American communities, specifically Mecklenburg and Richmond counties in Virginia and throughout the nation.

5. When the President and Congress are in active collusion with the Commonwealth of Virginia in denying the most basic freedoms of housing opportunities, employment opportunities, educational opportunities, medical care opportunities, business opportunities as enjoyed by "White People", is deprivation to Afro-Americans.

6. The President must be at minimum eligible to his office under Article Two, Section One. Many federal programs are administered in some fashion by the states such as medicaid, stimulus funds, unemployment,

7. Here, in Virginia, the very legitimate state codes intended to protect every

citizen regardless of color, is denied to Afro\_Americans, state codes which protect housing rights against unlawful evictions, are denied to Afro\_Americans, state codes which protect criminal and civil justice rights, are denied to Afro-Americans, state codes which protect medical care, are denied to Afro-Americans, state codes which protect insurance benefits, are denied to Afro-Americans, state codes which protect unemployment rights, are denied to Afro-Americans, state codes which protect voting rights, are denied to Afro-Americans, state codes which protect educational rights, are denied to Afro-Americans, state codes which protect business rights, are denied to Afro-Americans. all without a word or deed of challenge from the Obama justice department,

8. A natural born citizen who is President would not ignore the unconstitutional deprivation to a protected group of Americans such as Afro-Americans.

9. The 14<sup>th</sup> Amendment is a federal protection, not a state protection, its enforcement is to Congress, its violations of that enforcement is to the President and the justice department, the language of “No State Shall Make Or Enforce Any Law Which Abridges The Rights of Citizens”....., is cognizable under 42 U.S. C. 1983.

10. The President in order to provide the necessary protections to Afro-Americans and all Americans, must be a “natural born citizen”, it makes certain the President has no division of loyalty to the United States Constitution, which the founding fathers adopted through Article Two, Section One. Thus Petitioner has credible standing as an aggrieved person under 42 U.S.C. 1983 to request this court apply Article Two, Section One, Clause Five, applies to defendants Virginia State Board of Elections..

(Citing Bond v. United States (June 16, 2011). This matter is a case and actual controversy satisfying the requirement of the judicial power of Article Three of the United States Constitution, Section 2, Clause 1. because Plaintiff has no adequate remedy at law over a President who has assumed office while ineligible for that office under Article Two, Section One, Clause Five of the United States Constitution and who again campaigns for reelection having the same disability to that office.

In Bond, the High Court ruled that a private citizen could challenge a federal statute under the 10<sup>th</sup> Amendment to the U.S. Constituion, Here, Plaintiff petition's the district court to extend that protection to the United States Constitution under the 10<sup>th</sup> Amendment

:

**INJUNCTIVE RELIEF.**

\_\_The United States Supreme Court and the Fourth Circuit have well articulated the holdings in Winter v. Natural Resources Defense Council, Inc, 129 S. Ct. 365, 374-376 (2008).

Winter established four (4) pre-requisites a plaintiff must meet in order for the Court to invoke the extraordinary remedy of injunctive relief, plaintiff must establish:

1. that he is likely to succeed on the merits.
2. that he is likely to suffer irreparable harm.
3. that the balance of equities tips in his favor.

4. that an injunction is in the public interest.

In **Bell Atlantic Corporation v. Twombly**, 550 U.S. 544 (2007), the U.S. Supreme Court held a plaintiff must provide a “plausible” claim and detailed facts to support his allegations. In **Ashcroft v. Iqbal**, 129 S. Ct. 1937 (2009), the U.S. Supreme Court established once again the “plausibility” standard for plaintiffs when seeking to comply with a Rule 8 motion. here, Plaintiff has presented a “plausible” claim as required under Rule 8 of the Federal Rules of Civil Procedures.

## **II. ARGUMENT**

See *W. Va. Assoc. of Club Owners & Fraternal Services, Inc. v. Musgrave*, 553 F.3d 292, 298 (4<sup>th</sup> Cir 2009) (applying *Winter v. Natural Resources Defense Council, Inc.*, 129 S. Ct. 365, 374 (2008) As set forth above, the Virginia ballot allowing non “natural born citizens” to appear on the Virginia ballot for the Office of President is unconstitutionally burdensome towards Plaintiff’s right of free speech and association with a President who is an eligible “natural born citizen”..

## **III. UNITED STATES SUPREME COURT DECISIONS**

In *Minor v. Happersett*, 88 U.S. 162 (1875), The High Court wrote...

.....The Constitution does not in words say who shall be natural-born citizens. Resort must be had elsewhere to ascertain that. **At common law, with the nomenclature of which the framers of the Constitution were familiar, it was never doubted that all children born in a country of parents who were its citizens became themselves, upon their birth, citizens also. These were natives or natural-born citizens, as distinguished from aliens or foreigners...**

See also *United States v. Wong Kim Ark*, 169 U.S. 649 (1898).....

The Supreme Court of the United States has never applied the term “natural born citizen” to any other category than “those born in the country of parents who are citizens thereof”.

A preliminary injunction preserves the status quo and prevents irreparable harm until a hearing can be held. See *Granny Goose Foods, Inc. v. Board of Teamsters*, 415 U.S. 423, 439 (1974).

The loss of First Amendment freedoms, for even a minimal a period of time, has been uniformly and unequivocally held to constitute irreparable harm. *Elrod v. Burns*, 427 U.S. 347, 373 (1976). In *Doe v. Shenandoah County School Board*, 737 F. Supp. 913 (W. D. Va. 1990) stating, it is well established that even the most fleeting of infringements upon a citizen’s First Amendment rights constitutes irreparable injury that he should not be required to endure.

Plaintiff should not have to endure an invasion of his First Amendment Right to Petition his government because (1) The President has assumed an office he is not entitled to, (2) The President again with the same Constitutional disabilities is unlawfully campaigning for re-election, (3) specific candidates who are ineligible for the Office of President are allowed to campaign and may assume the Office of President in violation of The United States Constitution, thereby abridging Plaintiff and those similarly situated of their First Amendment rights of free speech and association with candidates and office holders who are eligible. The only declared candidates eligible for the Office of President is Rick Perry, Newt Gingrich, Governor Boehmer, John Huntsman and maybe Ron Paul (should he satisfy the requirement that his parents were U.S. citizens),

all the others Barack Obama, Mitt Romney, Rick Santorum, are Constitutionally ineligible.

**I. Plaintiff Has Likely Success on the Merits**

Article One, Section Two, Clause Five of the United States Constitution is the Supreme Law of the land. When it says “ No one except a natural born citizen” shall be entitled to the Office of President, it does not extend to U.S. citizens who are not natural born citizens. This Court as an Article III independent tribunal must uphold the Constitution.

**II. That he is likely to suffer irreparable harm in the absence of preliminary relief.**

- A. Loss of First Amendment freedoms, for even minimum periods of time, unquestionably constitutes irreparable injury “*Newsom ex rel Newsom v. Albemarle County School Board*, 354 F.3d 249, 261 (4<sup>th</sup> Cir. 2003)”. Plaintiff’s First Amendment rights to speech and association flows directly to the ability to petition the government as an aggrieved person, The Constitution requires that claimed ability to be lawfully linked to eligible office holders who are with the fullest of devotion and loyalty to the nation as the founding fathers intended.
- B. Petitioning an official who is President in violation of the Constitution abridges that right of Petition. The Fourth Circuit recognizes that in the context of an alleged violation of First Amendment rights, a plaintiff claimed irreparable harm is “inseparably linked” to the likelihood of success on the merits (See *Musgrave*, 553 F.3d at 298 quoting *W. Va. Assoc of Club Owners & Fraternal Servs., hic v. Musgrave*, 512 F. Supp. 2d 424, 429 (S.D. W. Va 2007)

- C. Here, the Virginia ballot unconstitutionally certifying candidates who are ineligible for the Office of President burdens Plaintiff's freedoms of speech and association, Thus, Plaintiff has established irreparable harm.

**III. that the balance of equities tips in his favor.**

- A. Plaintiff seeks injunctive relief to prevent a violation of his and millions similarly situated of their First Amendment rights to be governed by the Supreme Law of the land under Article One, Section Two, Clause Five. (See *Blackwelder*, 550 F.2d at 195), (*Doe v. Shenandoah County School Board*, 737 F.Supp, 913, 916 (W.D. Va 1990).
- B. It is well established that even the most fleeting of infringements upon a citizen's First Amendment rights constitutes irreparable injury that should not be required to endure.

**IV. that an injunction is in the public interest**

- A. In *Winter v. Natural Resources Defense Council, Inc.*, 129 S. Ct. 365, 374-76 (2008), The Supreme Court established (4) pre-requisites a plaintiff must meet in order for the Court to invoke the extraordinary remedy of injunctive relief, further.
- B. In *Bell Atlantic Corporation v. Twombly*, 550 U.S. 544 (2007), the Supreme Court held a plaintiff must provide a "plausible" claim and detailed facts to support his allegations.
- C. The evidence will show plaintiff's allegations against the Virginia State



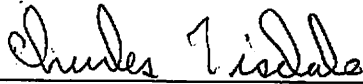
Board of Elections and The Federal Election Commission in permitting ineligible candidates to campaign, advertise, or assume the Office of President in violation of the United States Constitution, satisfies each and every of the (4) prongs articulated in Winter.

- D. The President's authority to sign laws effecting budgets, medicare, medicaid, employment, small business, housing, criminal justice, civil rights, foreign policy, financial bailouts, unemployment benefits, social security, etc. are all too important to allow an ineligible person to perform.
- D. Plaintiff needs not discuss any political views in favor or not in favor of the President's policies, this Court is not the proper forum for that, This Court is the proper forum to enforce the protections of the United States Constitution under Article One, Section Two, Clause Five, The First Amendment, and the Fourteenth Amendment
- E. It is clear that an injunction to protect the United States Constitution is vital an area as Article Two, Section One, Clause Five is in the "Public Interest"..

**Pursuant to Rule 65 (FRCP) The Court Should Waive the Bond Requirement or Set a Nominal Bond Of \$1.00 Because Defendants Will Suffer No harm as a Result of the Injunction.**

Plaintiff requests that the Court set the bond amount at zero or \$1,00 in that the District Court has the discretion to set the bond amount "in such sum as the court deems proper."

Respectfully submitted

A handwritten signature in cursive script, reading "Charles Tisdale", written in dark ink.

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Charles Tisdale

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